

§ 600.145

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

(f) By agreement of the recipient or subrecipient and the contractor, if consistent with the recipient's or subrecipient's usual business practices and applicable state and local law, any contract to which this section applies may provide for the payment of interest penalties on amounts overdue under such contract except that—

(1) In no case shall any obligation to pay such interest penalties be construed to be an obligation of the Federal government, and

(2) Any payment of such interest penalties may not be made from DOE funds nor be counted toward meeting a cost sharing requirement of a DOE award.

§ 600.145 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 600.146 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

- (a) Basis for contractor selection,
- (b) Justification for lack of competition when competitive bids or offers are not obtained, and
- (c) Basis for award cost or price.

§ 600.147 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the

10 CFR Ch. II (1–1–14 Edition)

contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 600.148 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds \$100,000. For those contracts or subcontracts exceeding \$100,000, DOE may accept the bonding policy and requirements of the recipient, provided the DOE has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a